

Public Document Pack



Friday, 28 October 2022

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DEVELOPMENT CONTROL COMMITTEE

You are summoned to a meeting of the Development Control Committee which will be held in **Committee Room 1**, Council Offices, Woodgreen, Witney OX28 1NB on **Monday, 7 November 2022 at 11.00 am.**



Giles Hughes
Chief Executive

To: Members of the Development Control Committee

Councillors: Elizabeth Poskitt (Chair), Rizvana Poole (Vice-Chair), Joy Aitman, Alaa Al-Yousuf, Lidia Arciszewska, Hugo Ashton, Andrew Beaney, Michael Brooker, Mike Cahill, Colin Dingwall, Harry Eaglestone, Ted Fenton, Andy Goodwin, Jeff Haine, David Jackson, Richard Langridge, Nick Leverton, Charlie Maynard, Lysette Nicholls, Andrew Prosser, Geoff Saul, Alaric Smith, Dean Temple and Alex Wilson

Recording of Proceedings – The law allows the public proceedings of Council, Cabinet, and Committee Meetings to be recorded, which includes filming as well as audio-recording. Photography is also permitted. By participating in this meeting, you are consenting to be filmed.

As a matter of courtesy, if you intend to record any part of the proceedings please let the Democratic Services officers know prior to the start of the meeting.

AGENDA

1. **Election of Chair for the 2022/23 Council Year**
2. **Election of Vice-Chair for the 2022/23 Council Year**
3. **Minutes of Previous Meeting (Pages 5 - 8)**
To approve the minutes of the meeting held on 13 September 2021.
4. **Apologies for Absence**
To receive any apologies for absence.
5. **Declarations of Interest**
To receive any declarations from Members of the Committee on any items to be considered at the meeting
6. **Participation of the public**
To receive any submissions from members of the public, in accordance with the Council's Rules of Procedure, anyone who lives in the district or who pays council tax or business rates to the Council is eligible to read a statement or express an opinion at this meeting. You can register to speak by sending your written submission of no more than 750 words to democratic.services@westoxon.gov.uk, by no later than 10.00am on the working day before the meeting.
7. **Update on the Councils current Land Supply status**
Purpose:
To receive an update on the Councils current Land Supply status.

Recommendation:
That members note the update and comment as necessary.
8. **Frequency of sub-committee meetings**
Purpose:
To agree the frequency of Uplands and Lowlands Sub-Committees.

Recommendation:
The frequency of the Sub-Committees is reviewed and updated where necessary.
9. **Neighbour notification**
Purpose:
To discuss the current neighbour notification process.

Recommendation:
Note the discussion and recommend amendments to process if necessary.
10. **The legal process for determining applications, the Scheme of Delegation and Permitted Development**
Purpose:
To provide the Councillors with training for determining applications, the Scheme of Delegation and Permitted Development.

Recommendation:

Training is provided for Councillors for determining applications, the Scheme of Delegation and Permitted Development.

11. **Mullin Project**

Purpose:

To receive an update from Officers on the Mullin Project.

Recommendation:

Committee to note the update.

(END)

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WEST OXFORDSHIRE DISTRICT COUNCIL

Minutes of the meeting of the **Development Control Committee**

Held in the Council Chamber, Woodgreen, Witney at 10.00 am on **Monday, 13 September 2021**

PRESENT

Councillors: Jeff Haine (Chairman), Ted Fenton (Vice-Chair), Joy Aitman, Andrew Beaney, Julian Cooper, Maxine Crossland, Harry Eaglestone, Duncan Enright, Steve Good, Andy Graham, David Jackson, Nick Leverton, Dan Levy, Michele Mead, Lysette Nicholls, Elizabeth Poskitt, Alex Postan, Geoff Saul, Dean Temple and Alex Wilson.

Officers: Phil Shaw (Business Manager - Development Management), Claire Hughes (Business Manager – Corporate Responsibility), Amy Bridgewater-Carnall and Adrienne Frazer, Strategic Support Officers.

1 Minutes of Previous Meeting

The minutes of the meeting held on 8 February 2021 were approved and signed by the Chairman as a correct record.

2 Apologies for Absence

Apologies for absence were received from Councillors Bolger, Davies, Langridge and Woodruff.

Councillor Poskitt substituted for Councillor Chapple, Councillor Graham substituted for Councillor Rylett and Councillor Mead substituted for Councillor St John.

3 Declarations of Interest

During the course of the meeting, Councillor Good advised that he was the Council's representative on the Cotswolds Conservation Board.

4 Consideration of Planning application to redevelop the Old Mill, Kingham as a 33 bedroomed Hotel and ancillary facilities

Prior to consideration of this item, the Chairman, Councillor Haine, advised that following receipt of correspondence relating to the meeting of the Uplands Committee, and having taken advice from the Monitoring Officer, he had decided to step down as Chairman for this item. Councillor Fenton took the Chair in his capacity as Vice-Chairman. Councillor Haine remained as a member of the Development Control Committee and addressed the meeting accordingly.

The Committee received a report from the Business Manager – Development Management, Mr Shaw, which dealt with the consideration of a planning application to develop the Old Mill, Kingham as a 33 bedroomed hotel and ancillary facilities.

Following a meeting of the Uplands Planning Sub-committee in July 2021, the Business Manager – Development Management had decided to refer the previously taken decision to the full Development Control Committee, as was his prerogative under the Council's Scheme of Delegation.

Mr Shaw introduced the report and provided clarification on the extant permission for five units on site, pre and post development and gave an overview of his reasons for calling the decision in to Committee. It was noted that the Council had sought separate legal advice on the matter and there was no evidence that this application was not a major development. In

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addition, the pandemic did not constitute exceptional circumstances. For information, the legal advice received was detailed in section 4.1 of the report.

The following people addressed the Committee:

Mr Christopher Stockwell, objecting;

Mr John Dewar, Kingham Parish Council, objecting; and

Mr James Roberts, applicant, supporting.

Councillor Leverton asked Mr Stockwell if the general opinion of Kingham residents had been collated via a survey. Mr Stockwell advised that most residents had communicated their objections through the village Facebook group, other social media methods or via email to the Parish Council.

Councillor Graham asked for clarification on the objection received from County Highways and it was noted that the Environment Agency had objected as per section 1.16 of the report.

Mr Shaw continued with the presentation of the report and highlighted key areas including the objection from the Parish Council, the scale of the development in a village setting and an Area of Outstanding Natural Beauty (AONB), the significant amount of built form being introduced, the extant permission for five detached dwellings and the officer view that the development would be harmful to the character of the settlement.

Whilst officers did not dispute that the site needed reinvestment, this was not felt to be suitable reason for approving major development in the AONB. The report detailed the Landscaping officer's comments at 5.28 of the report, along with the opinion of the Cotswold Conservation Board at 5.29 and the Conservation Officer's comments at section 5.36 of the report.

Members were signposted to the detail in the report relating to the Exceptional Circumstances case, the Landscape Impact, the impact on Heritage Assets and the accessibility and highways issues.

In summary, Mr Shaw reiterated his officer's original recommendation of refusal for the reasons outlined on pages 37 and 38 of the document pack.

Councillor Haine addressed the meeting and outlined the reasons why he did not agree with the officer's recommendation. He reminded Members of the reasons that a Judicial Review could be called and how he felt each application should be considered on a case by case basis. Councillor Haine proposed that the application be approved subject to an archaeological survey, appropriate conditions and a S106 agreement. He explained that the reasons for going against officer recommendations were because the application accorded with paragraph 172 of the Local Plan; Note 55 of the NPPF; and Local Plan Policies OS1, OS2, OS3, OS4, E4, EH1, EH2 and EH3.

The proposal was seconded by Councillor Postan who supported the application for a number of reasons, not least because he felt this was not major development. He referred to the existing hotel on site with a similar number of bedrooms, the repairs required and the benefit the development would have on the residents of Kingham with regard to future employment opportunities. Councillor Postan described how the 'soft edge' of Kingham could be managed using clever design and planting and suggested a routing order to ensure that deliveries were made at certain times of day.

Mr Shaw urged caution with regards to the comments made relating to major development and reminded the meeting that this was a matter for the decision maker, as highlighted in paragraph 3.2 of the report. He advised that the type of landscaping described would be

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difficult due to the layout of the site and he did not feel there was room for mitigating landscape schemes.

Councillor Beaney agreed with previous speakers that this was not major development and he referred to footnotes 176 and 177 of the NPPF to evidence his decision. He reiterated that there had been no technical objections, queried the comments made by the Cotswold Conservation Board and did not agree that the setting or nature of the development was major development. He provided Members with examples of nearby applications where alternative officer views had been taken.

Councillor Jackson addressed Members and advised that having looked again at the papers, and having heard the advice from officers he had been persuaded that this was a major development and there were no exceptional circumstances provided that had convinced him otherwise. He therefore supported the officer recommendation of refusal.

Councillor Good advised that he was still uncertain and he valued the experience of both the senior officer and the Chairman. However, he did not feel that the Committee should be swayed by the potential risk of the cost of a judicial review.

Councillor Graham felt that the potential financial impact on the Council should be considered, noted that the scheme fell within an AONB and no economic case existed other than for the benefit of the applicant. He noted the number of serious objections and was disappointed that the applicant had not engaged with the Parish Council. He felt there was no doubt this was major development and would impact on the openness of views. He therefore agreed with officers and supported the recommendation to refuse permission.

Councillors Saul and Enright both outlined their views with regards to the issue of major development. Councillor Saul did not feel that he had been convinced of any exceptional circumstances that would apply and felt officers should be supported. He felt the applicant should be invited to reapply for permission on a smaller scale.

Councillor Enright also felt there was a solution to be found but had been persuaded by the officers that this was major development. He felt that transport solutions also needed addressing.

Councillor Cooper felt that judicial reviews could be tackled as long as good process had been followed, however, he did feel this application was major development. He also referred to other, historical applications, located outside of the AONB and noted that this site had a higher grade of protection.

Councillor Levy noted that two differing legal opinions had been presented and queried if a third should be sought. However, he advised he was struggling to see a reason why this was not major development and therefore felt the officer recommendation and legal advice of the Council should be supported.

Councillor Poskitt noted that major development was not just due to size but also the significance of a site. She felt the views of the Kingham residents was interesting and noted that the infrastructure had unlikely changed for 50 years. Following a query relating to access for emergency vehicles, Mr Shaw advised that no objection had been received directly from the Emergency Services.

In response to a question from Councillor Graham, Members were advised that personal liability of Councillors did exist but only in relation to irrational decision making situations.

Councillor Crossland felt that the argument was finely balanced, was mindful that the development could be a tourism asset and would add to rural employment. However, whilst

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the design was good she felt it may not be in the correct location and was disappointed that there was insufficient room for landscaping.

Councillor Temple referenced policy EH1 relating to brownfield sites and recognised that officers had worked hard to produce an acceptable application. However, he was also mindful that this matter had been ongoing for some time, could leave a village in a beautiful area with a derelict building and wondered what the future may hold for the site if permission were not granted.

The proposal to approve permission, contrary to officer's recommendations and subject to an archaeological survey, appropriate conditions and a S106 agreement, was then put to the vote and was lost.

Councillor Enright proposed that the application be refused, in line with officer's recommendations, for the reasons outlined in the report. This was seconded by Councillor Cooper.

The Officer recommendation of refusal was then put to the vote and was carried for the reasons outlined below.

Refused

Reasons

1. The proposed development comprises major development within the Cotswolds AONB and no exceptional circumstances case has been made to justify this development which would have a significant adverse impact on the area's natural beauty and landscape including its heritage. The development would also be of a disproportionate and inappropriate scale to its context and would not form a logical complement to the existing scale and pattern of development or the character of the area. As such, the proposed development would conflict with Policies OS2, OS4, EH1 and BC1 of the adopted West Oxfordshire Local Plan 2031, the West Oxfordshire Design Guide 2016, the National Design Guide 2019, and the relevant paragraphs of the NPPF;
2. The scale, siting and design of the proposed development would have a harmful impact on the setting of the Kingham Conservation Area and the results of an archaeological evaluation have not been submitted in conflict with Policies EH9, EH10, EH11 and EH15 of the adopted West Oxfordshire Local Plan 2031 and the NPPF; and
3. The applicant has not entered into a legal agreement to provide the required contribution/mitigation measures to maximise opportunities for walking, cycling and public transport and towards promoting healthy communities. As such the proposal is therefore also contrary to West Oxfordshire Local Plan 2031 Policies OS5 and T3 and the relevant paragraphs of the NPPF.

The Meeting closed at 12.40 pm

CHAIRMAN

N.B. After the Committee had closed, the applicant advised officers that they wished to withdraw their application and therefore, the application stood as withdrawn and no decision notice was issued.